IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Second Appeal No.377/05

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	**Court's or Judge's Orders.**

CORAM : **A.P. Lavande,J**
DATE : 16th August, 2006

Heard Shri Kotwal, learned counsel for the appellants.

2. This appeal is directed against the Judgment and decree dated 5th July, 2003 passed by the Additional District Judge, Bhandara in Regular Civil Appeal No. 14/2000 dismissing the appeal filed by the appellant against the Judgment and decree dated 26th November, 1999 passed by the Civil Judge, Jr. Dn. Nagpur in Regular civil Suit No. 182/90.

3. The appellants are the original plaintiffs who filed the suit for declaration, mandatory injunction as well as for removal of the alleged encroachment in the suit property. The trial Court after appreciating the evidence led by the parties held that the plaintiffs have failed to prove the title to the suit property and further that the plaintiffs have also failed to prove that there was encroachment by the defendant in their property.

This finding given by the trial Court has been confirmed by the appellate Court.

3. Mr. Kotwal, learned counsel for the appellants submitted that the trial court as well as appellate court wrongly held that the plaintiffs have not proved their title to the suit property by identifying the suit property inasmuch as there was no public record available at the relevant time to enable the plaintiffs to establish the identity of the suit property although the plaintiffs have led cogent evidence to the establish the identity of the suit property.

4. According to the learned counsel both the courts below have erred in law in dismissing the suit filed by the plaintiffs.

5. I have considered the submissions made by the learned counsel and perused the impugned Judgments passed by both the courts below. Both the courts below after analysing the evidence led by the parties have held that the plaintiffs have not proved their title to the suit property and also encroachment upon the suit property. These findings recorded by both the courts below are based upon appreciation of the evidence on record which cannot be said to be perverse. I do not find any perversity in the findings given by both the courts below.

In my opinion, no substantial question of law is involved in the present appeal. Hence, the appeal is summarily rejected.

Judge

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